

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KIRAN P. ATWAL,

Plaintiff,

v.

LAWRENCE LIVERMORE NATIONAL
SECURITY, LLC, et al.,

Defendants.

No. C-11-3030 MMC

**ORDER ADVISING PARTIES
DEFENDANTS' MOTIONS FOR
JUDGMENT ON THE PLEADINGS WILL
BE TREATED IN PART AS MOTIONS
FOR SUMMARY JUDGMENT;
CONTINUING BRIEFING SCHEDULE
AND HEARING ON DEFENDANTS'
MOTIONS**

Before the Court are two motions for judgment on the pleadings, filed pursuant to Rule 12(c) of the Federal Rules of Civil Procedure: (1) defendant Lawrence Livermore National Security, LLC's ("LLNS") motion, filed December 5, 2011; and (2) defendant George Miller's motion, filed December 5, 2011. Having read and considered the motions, the Court finds the moving parties seek, in part, judgment based on "matters outside the pleadings," and, consequently, the motions, to such extent, "must be treated as [motions] for summary judgment under Rule 56." See Fed. R. Civ. P. 12(d).

In particular, defendants argue that certain of plaintiff's claims, specifically, his claims under 42 U.S.C. §§ 1983 and 1985 and his claim for defamation, are barred by the applicable statutes of limitations. In support thereof, defendants rely on a "Notice of Layoff" dated May 22, 2008, advising plaintiff he "will be separated from employment . . . effective

1 . . . June 20, 2008.” (See Defs.’ Req. for Judicial Notice Ex. D.) Although defendants
2 request the Court take judicial notice of said document, the Court is not satisfied
3 defendants have made a sufficient showing in that regard.

4 Accordingly, to the extent the motions seek judgment based on the statute of
5 limitations, the Court hereby advises the parties it will treat defendants’ motions for
6 judgment on the pleadings as motions for summary judgment, and hereby EXTENDS the
7 briefing schedule and CONTINUES the hearing, as follows:

8 1. No later than January 11, 2012, defendants shall file any declaration(s) in support
9 of their argument that the above-referenced three claims are time-barred.

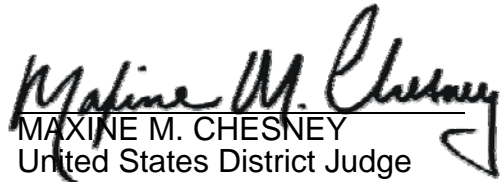
10 2. No later than January 27, 2012, plaintiff shall file any opposition to the motions,
11 and, to the extent the motions seek judgment based on the statute of limitations, shall file
12 evidence, if any exists, that establishes a triable issue of fact with respect to that defense.

13 3. No later than February 10, 2012, defendants shall file any reply.

14 3. The hearing on the motions is continued from January 20, 2012 to February 24,
15 2012, at 9:00 a.m.

16 **IT IS SO ORDERED.**

17
18 Dated: December 28, 2011

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MAXINE M. CHESNEY
United States District Judge